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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,043	05/10/2002	Joseph Frederick Fritsch	Q67954	8901
23373	7590	04/23/2004	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			KLIMOWICZ, WILLIAM JOSEPH	
			ART UNIT	PAPER NUMBER
			2652	

DATE MAILED: 04/23/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/030,043

Applicant(s)

FRITSCH ET AL

Examiner

William J. Klimowicz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 68-88 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 68-75, 77 and 80-88 is/are rejected.
- 7) ☒ Claim(s) 76, 78 and 79 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Status

Claims 1-67 have been voluntarily cancelled by the Applicants.

Claims 68-88 are currently pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 68-75, 77, 80-84 and 86-88 are rejected under 35 U.S.C. 102(b) as being anticipated by Jennings (US 5,546,257).

As per claim 68, Jennings (US 5,546,257) discloses a protective device (e.g., 10) for protecting an interface means (means of a read/write head that contacts protecting means (14)) of a read and/or write head of a read and/or write unit when the read and/or write unit is not in use (e.g., see, *inter alia*, COL. 3, lines 4-5), the read and/or write unit (e.g., disc drive) comprising a receiving area for receiving a data carrier (e.g., floppy disk, compact disc, etc. - see COL. 1, lines 6-13 and also - COL. 5, lines 29-31), the read and/or write head being located in or adjacent the receiving area for interfacing with the data carrier (e.g., floppy disk, compact disc, etc. - see COL. 1, lines 6-13) for reading from and/or writing to the data carrier (when such a data carrier is inserted, after the protecting means is removed), the protective device comprising: a carrier

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means (e.g., 20, 40) for locating in the receiving area of the read and/or write unit, and a protecting means (14) carried on the carrier means (20, 40) for protecting the interface means of the read and/or write head against dirt and dust (e.g., see, *inter alia*, COL. 5, lines 36-41), the protecting means (14) being of area and being located on the carrier means (20, 40) for engaging and embracing the interface means (means of a read/write head that contacts protecting means (14)) when the read and/or write head is in the inoperative position with the read and/or write unit deactivated so that the interface means (means of a read/write head that contacts protecting means (14)) nests in the protecting means (14) for protecting the interface means from dirt and dust when the read and/or write unit is not in use - COL. 5, lines 4-24.

As per claim 69 in which the area of the protecting means (14) offered up to the interface means (means of a read/write head that contacts protecting means (14)) is at least of area similar to the area of the interface means (means of a read/write head that contacts protecting means (14)) - see FIGS 1-3.

As per claim 70 in which the area of the protecting means (14) offered up to the interface means (means of a read/write head that contacts protecting means (14)) is greater than the area of the interface means (means of a read/write head that contacts protecting means (14)) - FIGS. 1-3.

As per claim 71 in which the protecting means (14) is resilient (felt cloth).

As per claim 72 in which the protecting means (14) comprises a plurality of fibres extending from the carrier means (20, 40) for engaging the interface means (means of a read/write head that contacts protecting means (14)) - COL. 4, lines 54-56.

As per claim 73 in which the fibres of the protecting means (14) are flexible (e.g. being made of "felt").

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As per claim 74 in which the fibres of the protecting means (14) are provided in the form of a "brush." That is, the felt includes fibres which includes stiff hairlike structures since it is held together by a binding material, and hence "stiffened." COL. 4, lines 55-60.

As per claim 75 in which the fibres of the protecting means (14) extend from a base member (e.g., the member (14) extends from base member (21 and 22)) mounted on the carrier means (20).

As per claim 77 in which the carrier means (20, 40) defines a central axis (e.g., 12) for in use coinciding with a rotational axis of a data carrier in the receiving area, and the carrier means (20, 40) defines a carrier plane (plane of (14)), and the fibres of the protecting means (14) extend from the carrier means at an angle to the carrier plane of less than 90°. That is the felt includes fibres (as seen in FIG. 7), which are certainly not in a 90 degree orientation to the plane of (14).

As per claim 80 in which the protecting means (14) protects the interface means (means of a read/write head that contacts protecting means (14)) of the read and/or write head from shock - COL. 5, lines 39-41).

As per claim 81 in which an indicating means (e.g., holes (33), 34) which indicates the direction a "normal" data carrier would be inserted into the drive) is provided on the carrier means (e.g., (20)) for indicating the direction in which the carrier means (20) is to be inserted in the receiving area of the read and/or write unit, and for facilitating alignment of the protecting means (14) with the interface means of the read and/or write head.

As per claim 82 in which the protecting means (14) is located on the carrier means (20, 40) for cleaning the interface means (means of a read/write head that contacts protecting means (14)) as the carrier means (20, 40) is being inserted in the receiving area - COL. 5, lines 36-39.

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As per claim 83 in which the protecting means (14) is located on the carrier means (20, 40) for cleaning the interface means (means of a read/write head that contacts protecting means (14)) when the read and/or write head is activated for reading or writing data, and when the read and/or write head is being initially moved for identifying data - COL. 5, lines 4-39.

As per claim 84 in which the protecting means (14) is *for* protecting an interface means provided by a lens of a read and/or write optical head (intended use), the protecting means being of area for engaging and embracing the lens - see COL. 5, line 45, wherein the protective device of Jennings (US 5,546,257) is capable of being used in a video/audio devices which include such lenses.

The method claims of 86-88 are seen to be met by the structure of Jennings (US 5,546,257) as articulated with reference to the product claims, *supra*.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 85 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings (US 5,546,257).

See the description of Jennings (US 5,546,257), *supra*.

As per claim 85, although Jennings (US 5,546,257) does not expressly disclose wherein the carrier means is provided by a carrier disc, Jennings (US 5,546,257) readily appreciates the

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applicable of changing/modifying the shape of such a carrier to suit different recording units, such as audio and video which utilize such disc-shaped media - see COL. 5, lines 43-49.

Official notice is taken that disc carriers being of disc-shape to function as carriers in cleaning protectors are notoriously old and well known and ubiquitous in the art; such Officially noticed fact being capable of instant and unquestionable demonstration as being well-known.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the protecting device of Jennings (US 5,546,257) with a disc-shaped carrier means, applicable to audio/video units (as suggested by Jennings (US 5,546,257)).

The rationale is as follows: one of ordinary skill in the art would have been motivated to provide the protecting device of Jennings (US 5,546,257) with a disc-shaped carrier means, applicable to audio/video units (as suggested by Jennings (US 5,546,257)) in order to provide the protective device as described by Jennings (US 5,546,257) within a device which accepts and uses such disc-shaped media, allowing the protective device to function as its comparative intended data media (such as an optical disc - as suggested by Jennings (US 5,546,257)).

Response to Arguments

Applicants' arguments with respect to newly presented claims 68-75, 77 and 80-88 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

Claims 76, 78 and 79 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

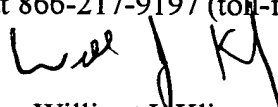
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Klimowicz whose telephone number is (703) 305-3452. The examiner can normally be reached on Monday-Thursday (6:30AM-5:00PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


William J. Klimowicz
Primary Examiner
Art Unit 2652

WJK